



THE ATTORNEY GENERAL
OF TEXAS

Gerald C. Mann

AUSTIN 11, TEXAS

~~JOSEPH E. MANN~~
ATTORNEY GENERAL

Honorable Julian E. Weisler
County Attorney
Washington County
Brenham, Texas

Dear Sir:

Opinion Number O-1292

Re: Disposition of levee
improvement bonds after
some have been paid and
cancelled.

We have your letter requesting our opinion as to the disposition of bonds of Washington County Improvement District Number One which have been paid and cancelled by the County Treasurer of Washington County.

The facts underlying your question are that in January of 1911, Washington County Improvement District Number One issued \$57,000 in bonds, maturing from 1914 to 1951, inclusive, for the purpose of constructing levees in the southeastern portion of the county, and that the County Treasurer having paid all of such bonds now declines to deliver same to the governing board of the District in compliance with their request to surrender same for destruction.

Washington County Improvement District Number One was established pursuant to Chapter 2, Title 83, of the Revised Civil Statutes, 1911, Articles 5530 to 5584, Article 5555 thereof states, in part:

"And said Commissioners' Court shall provide for a sinking fund for the payment of bonds issued by such district, and which shall be set forth in a well bound book; and said book shall at all times be open to the inspection of all parties interested in said district, either as taxpayers or bondholders; and upon the payment of any bonds an entry thereof shall be made in said book. The county clerk shall receive for his services in recording all bonds and other instruments of the Improvement District the same fees as provided for other like records."

Article 5564 provides that:

"It shall be the duty of the County Treasurer to open an account with the Improvement District and to keep an accurate account of all moneys paid out by him. He shall pay out no money except upon a voucher signed by two of the Improvement Commissioners and countersigned by the County Judge; and as often as required by said Improvement Commissioners or the Commissioners' Court, he shall render a correct account to them on all matters pertaining to the financial condition of such district."

In the opinion of this department the County Treasurer acts as the ex officio treasurer of said district and, as such, was required to receive all moneys paid to the district and to disburse such moneys upon proper order signed by two commissioners of the district and countersigned by the County Judge. The other requirement being that he should keep an accurate record of all moneys received for the district and all moneys paid out for the district. It follows that the law contemplated the records, provided to be kept by him and which he is directed to preserve, would be sufficient to relieve him of any further responsibility as to receipts and disbursements of funds for such district. Accordingly, when bonds have been paid and subsequently cancelled or perforated, we think the bonds should be delivered to the governing board of the Improvement District to be disposed of in such manner as is deemed best.

We find no law requiring the destruction of "paid and cancelled bonds." However, as a precaution, it seems advisable to destroy such bonds, and that if records have been accurately kept plainly showing that all outstanding bonds had finally been paid and cancelled, such records would be sufficient to prove the final discharge of all such obligations.

It occurs to us that under Article 5555 it was intended that the County Clerk should be the custodian of the bonds and that the County Treasurer was required only to receive and pay moneys of the district pursuant to orders by the proper officials, but in either event we are of the opinion that the bonds should be delivered to the

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governing board of the district for destruction, taking their receipt therefor.

Very truly yours

ATTORNEY GENERAL OF TEXAS

s/ Clarence E. Crowe

By

Clarence E. Crowe
Assistant

CEC-s/og

APPROVED NOV. 8, 1939

s/ Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee
By BWB, Chairman